

CV 13 -

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UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF NEW YORK

COGAN, J.

MICHAEL ARROYO,

Plaintiff,

v.

FRONTLINE ASSET STRATEGIES, LLC,

Defendant.

) Case No.:

) COMPLAINT AND DEMAND FOR JURY
) TRIAL

) (Unlawful Debt Collection Practices)

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

2013 JAN 11 PM 3:08

FILED
CLERK

COMPLAINT

MICHAEL ARROYO ("Plaintiff"), by his attorneys, KIMMEL & SILVERMAN, P.C.,
alleges the following against FRONTLINE ASSET STRATEGIES ("Defendant"):

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's
violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter
"FDCPA").

II. JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k(d) and 28 U.S.C. §1331.

3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

III. PARTIES

4. Plaintiff is a natural person who resides in Ozone Park, New York, 11416.

5. Defendant is a debt collection company with headquarters located at 1935
County Road, B2 West, Suite 425, Roseville, Minnesota, 55113.

1 6. At all relevant times, Defendant acted as a “debt collector” within the meaning of
2 15 U.S.C. § 1692(a)(6), and attempted to collect a “debt” as defined by 15 U.S.C. §1692(a)(5).

3 7. Defendant regularly conducts business in the State of New York, therefore
4 personal jurisdiction is established.

5 8. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

6 9. Defendant acted through its agents, employees, officers, members, directors, heirs,
7 successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.
8

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11 **IV. FACTUAL ALLEGATIONS**

12 10. At all relevant times, Defendant sought to collect an alleged consumer debt from
13 Plaintiff related to a Citibank credit card.

14 11. The alleged debt arose out of transactions that were for personal, family or
15 household purposes.

16 12. As Plaintiff has no business debt, the alleged debt could only be personal in
17 nature.

18 13. Between August of 2012 and September of 2012, Defendant’s collectors placed
19 repeated harassing telephone calls to Plaintiff’s cellular and work telephone numbers in its
20 attempt to collect the alleged debt.
21

22 14. Defendant’s harassing collection calls originated from numbers including, but not
23 limited to (877) 258-1590, (888) 630-1251, and (888) 630-0560. The undersigned has confirmed
24 this number belongs to Defendant.
25
26
27
28

1 15. Defendant's collectors, including but not limited "Rob Jackson" (phonetic),
2 "Charles Moore" (phonetic), "Jimmy" (phonetic), and "Troy" (phonetic) called Plaintiff's
3 cellular and work telephone numbers on a near-daily basis.

4 16. Plaintiff disputed the debt in calls with Defendant's collectors.

5 17. Because he disputed the debt, Defendant's collectors were also told that he
6 refused to pay the debt and to stop calling.

7 18. Defendant continued to call Plaintiff.

8 19. Because Plaintiff clearly indicated a refusal to pay, subsequent calls that were
9 made could only have been placed to harass Plaintiff in hopes he would change his mind and
10 pay.
11

12 20. Defendant's harassment strategy prevailed and to end the harassment, Plaintiff
13 agreed to a payment plan. Despite this, Defendant collectors still continued to call.
14

15 21. Defendant's collector "Charles Moore", then engaged in contacts with a business
16 client of Plaintiff, on September 7, 2012, conversed with that client and claimed that exigent
17 circumstances existed for Plaintiff to return the call.
18

19 22. In response to the conversation and message above, the client emailed Plaintiff
20 about the conversation with "Charles Moore". See Exhibit "A".
21

22 23. Plaintiff was humiliated and embarrassed by the contact with his client.

23 24. The call adversely affected and tarnished the professional relationship.

24 25. Immediately upon learning of Defendant's contact with his client, a complaint
25 was made in writing to Defendant's customer service department by emailing,
26 complaints@frontlineas.com, on September 7, 2012, September 10, 2012, and September 12,
27 2012. See Exhibit "B".
28

1 26. Upon information and belief, the messages were received but disregarded.

2 27. Upon information and belief, the messages were not acted upon.

3 28. Upon information and belief, Defendant took no corrective action.

4 29. Upon information and belief, the messages were deleted without action.

5 30. Defendant never responded to any of Plaintiff's complaint emails.

6 31. Upon information and belief, the "complaints" department of Defendant is
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8 illusory, used in furtherance of debt collection activity, rather than investigation and response to
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10 consumer complaints.

11 32. Defendant took the actions described herein with the intent to harass, deceive,
12
13 embarrass, and coerce payment from Plaintiff, without regard for his rights.

14 33. Defendant had no lawful purpose for communicating with Plaintiff's client.

15 34. Defendant had no lawful purpose for calling Plaintiff after he disputed/refused to
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17 pay the debt.

18 35. Defendant had no lawful purpose for calling Plaintiff after he had agreed to a
19
20 payment arrangement.

21 36. Defendant had no lawful purpose whatsoever in adopting the collection strategy
22
23 alleged above.

24 **COUNT I**
25 **DEFENDANT VIOLATED § 1692c(b) OF THE**
26 **FAIR DEBT COLLECTION PRACTICES ACT**

27 37. Section 1692c(b) of the FDCPA prohibits debt collectors from communicating
28
29 with any person other than a consumer, his attorney, a consumer reporting agency if otherwise

1 permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector in
2 connection with the collection of the consumer's debt, without the prior consent of the consumer.

3 38. Defendant violated § 1692c(b) of the FDCPA when it contacted Plaintiff's client
4 in its attempts to collect the alleged debt, without the prior consent of the consumer.
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7 **COUNT II**
8 **DEFENDANT VIOLATED § 1692d OF THE**
9 **FAIR DEBT COLLECTION PRACTICES ACT**

10 39. Section 1692d of the FDCPA prohibits debt collectors from engaging in any
11 conduct the natural consequence of which is to harass, oppress, or abuse any person in
12 connection with the collection of a debt.

13 40. Defendant violated § 1692d of the FDCPA when it continuously and repeatedly
14 called Plaintiff, when it continued to call Plaintiff after Plaintiff set up a payment schedule with
15 Defendant, when it informed Plaintiff's client that Plaintiff owed a debt, and when it engaged in
16 other harassing, oppressive, or abusive conduct.
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19 **COUNT III**
20 **DEFENDANT VIOLATED § 1692d(5)**
21 **OF THE FAIR DEBT COLLECTION PRACTICES ACT**

22 41. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a
23 telephone to ring or engaging any person in telephone conversation repeatedly or continuously
24 with the intent to annoy, abuse, or harass any person at the called number.

25 42. Defendant violated § 1692d(5) of the FDCPA by causing Plaintiff's work and
26 cellular telephone to ring repeatedly and continuously with the intent to annoy or harass him.
27
28

COUNT IV
DEFENDANT VIOLATED § 1692e OF
THE FAIR DEBT COLLECTION PRACTICES ACT

43. Section 1692e of the FDCPA prohibits debt collectors from using any false, deceptive, or misleading representation or mean in connection with the collection of any debt.

44. Defendant violated § 1692e of the FDCPA when it contacted Plaintiff's client regarding Plaintiff's debt and misrepresented that his communicating with Plaintiff was "important," and when it engaged in other false or misleading conduct in its attempt to collect a debt that Plaintiff did not owe.

COUNT V
DEFENDANT VIOLATED § 1692e(10) OF THE
FAIR DEBT COLLECTION PRACTICES ACT

45. Section 1692e(10) of the FDCPA prohibits debt collectors from using any false representation or deceptive means to collect or attempt to collect any debt.

46. Defendant violated § 1692e(10) when it contacted Plaintiff's client regarding Plaintiff's debt and misrepresented that communicating with Plaintiff was "important," and when it engaged in other false or misleading conduct in its attempt to collect the alleged debt.

COUNT VI
DEFENDANT VIOLATED § 1692f OF THE
FAIR DEBT COLLECTION PRACTICES ACT

47. Section 1692f prohibits debt collectors from using unfair or unconscionable means to collect or attempt to collect any debt.


48. Defendant violated § 1692f when it contacted Plaintiff's client in its attempt to collect Plaintiff's debt and told him that the communication was "important," and when it engaged in other unfair or unconscionable means to collect a debt that Plaintiff did not owe.

1
2 WHEREFORE, Plaintiff, MICHAEL ARROYO, respectfully prays for a judgment as
3 follows:
4

- 5 a. All actual compensatory damages suffered pursuant to 15 U.S.C. §
6 1692k(a)(1);
7 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant
8 to 15 U.S.C. § 1692k(a)(2)(A);
9 c. All attorneys' fees, witness fees, court costs and other litigation costs
10 incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
11 d. Any other relief deemed appropriate by this Honorable Court.
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13
14

15 DATED: 01/08/2013

KIMMEL & SILVERMAN, P.C.

16 By 
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25
26
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From: Rodriguez, Hector
Sent: Friday, September 07, 2012 11:37 AM
To: Arroyo, Michael
Subject: Front Asset Strategies

Hi Mike,

I just got a call from Charles from Front Asset Strategies. He said to call him ,it is important 888-630-1251
Regards

Hector Rodriguez
Affirmative Action Officer

Tishman Construction Corporation
An AECOM Company
100 Park Avenue
T 212-708-6800 F 212-399-3657
www.tishmanconstruction.com

Effective June 15, 2012, my new e-mail address will be [REDACTED]@aecom.com. Please update your contact information accordingly.

9/19/2012



FYI

----- Forwarded message -----

From: Michael Arroyo <[REDACTED]@gmail.com>

Date: Wed, Sep 12, 2012 at 11:19 AM

Subject: Re: Charles Moore

To: complaints@frontlineas.com

Thank you for responding, I hope this matter is taken seriously as I am positive I am not the only victim of your companies unethical practices, and I am again requesting a copy of your procedures.

On Wed, Sep 12, 2012 at 9:21 AM, Michael Arroyo <[REDACTED]@gmail.com> wrote:

I am again requesting a copy of your procedure manual, please contact me today at 917.709.5919.

On Mon, Sep 10, 2012 at 9:49 AM, Michael Arroyo <[REDACTED]@gmail.com> wrote:

Good Morning, please get back to me with the information requested below.

Thanks

Mike Arroyo

On Fri, Sep 7, 2012 at 2:09 PM, Michael Arroyo <[REDACTED]@gmail.com> wrote:

Today, Charles Moore contacted a company that is a client of the company I work for, regarding my personal debt. I have since spoken to Jimmy and Rob Jackson of this situation and was assured that it would be handled properly. I understand the nature of your business is debt collecting but calling third party sources to contact me is unreal, please send me a copy of your policies and practices regarding this, therefore I can review because I have never heard of this type business practices before.

Sincerely,

Michael Arroyo
[REDACTED]

9/19/2012

